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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,196	04/21/2000	Stephen G. Perlman	14531.27.2.2	6989

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EXAMINER

NGUYEN, CHAU T

ART UNIT	PAPER NUMBER
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2176

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DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,196

Applicant(s)

PERLMAN, STEPHEN G.

Examiner

Chau Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Amendment C, filed on 02/10/2004, has been entered. Claims 1-17 are presented for examination.

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/10/2004 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Patent No. 5,574,440, in view of Houser et al. (Houser), Patent No. 5,774,859, and further in view of Brooks et al. (Brooks), U.S. Patent No. 5,826,166.

5. As to claims 1, 5, 6, 8-9, and 11-12, Kurtz discloses in a home entertainment system including a central device coupled to a plurality of electronics devices, wherein the plurality of electronics devices includes a display device and a descrambler, and wherein the central device manages the operation of the plurality of electronics devices, a method for tuning channels that are requested by a user for display on the display device, the method comprising the steps for:

receiving user input at the central device, wherein the user input selects a channel that corresponds to a signal carrying programming, and wherein the signal is received by the entertainment system (Abstract, col. 1, line 11 – col. 2, line 7, col. 3, lines 15-39, and Fig. 1: switching apparatus 10 (the central device) is employed with an entertainment installation having a cable signal passing through a cable convert box (descrambler), and user can use a remote control to select a channel);

determining at the central device whether the signal is scrambled or non-scrambled (Abstract, col. 2, line 37 – col. 3, line 11, col. 4, line 47 – col. 5, line 21 and Fig. 1: the central device has green and red light emitting diodes (LEDs) which indicate the signal is scrambled (premium) or non-scrambled (non premium));

if the signal is determined to be scrambled, performing the steps for:

routing the scrambled signal from the central device to the descrambler (col. 3, line 40 – col. 4, line 12, col. 4, line 47 – col. 6, line 18, and Fig. 1 & Fig. 2: the premium signal is output to a converter box (descrambler)); and using the descrambler to descramble and tune to one or more channels of the scrambled signal for display on the device (col. 3, line 40 – col. 4, line 12, col. 4, line 47 – col. 6, line 18, and Fig. 1 & Fig. 2: the output of a cable converter box suited for a cable ready TV tuning system); and if the signal is determined to be non scrambled, performing the step for:

using an internal tuner at the central device to tune to one or more channels of the non-scrambled signal for display on the display device (col. 3, line 40 – col. 4, line 12, col. 4, line 47 – col. 6, line 18, and Fig. 1 & Fig. 2: where the signal source selected is a non-premium (non-scramble) channel input, the viewer is provided the use of all the various built-in programming and television receiver).

However, Kurtz does not disclose electronic programming guide (EPG) data stored at the central device. In the same field of endeavor, Houser discloses EPG data, from information provider, is stored in memory at subscriber terminal unit 160 (central device) (col. 23, lines 7-37 and Fig. 2C). Houser teaches a subscriber terminal unit 160, is coupled to plurality of devices such as televisions, VCR, computer, and the like, which is similar to the system of Kurtz. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kurtz and

Houser to include EPG data at the central device because EPG provide television schedule information arranged by time and channel for programs up to a few hours in advance.

However, Kurtz and Houser do not disclose an internal tuner is located at the central device. In the same field of endeavor, Brooks discloses NIM (network interface module) controller 510 provides a network interface between the host DET (digital entertainment terminal) and all elements of NIM 101, and the network interface comprising an RF tuner 501 (Fig. 3, Fig. 5, and col. 19, lines 38-65, col. 20, lines 13-19, col. 20, lines 60-67, and col. 25, lines 40-60). Since Brooks teaches a digital entertainment terminal is adapted to begin execution of other application in re response to an input from a user's remote control, which is similar a method for switching between two or more RF signal sources while employing the hand held remote control supplied of Kurtz and Houser, thus it would have been obvious to one of ordinary skills in the art at the time the invention was made to combine the teachings of Brooks and Kurtz and Houser to include an internal tuner locating at the central device to enhance the system.

6. As to claims 2, 7 and 14, Kurtz, Houser, and Brooks (Kurtz-Houser-Brooks) disclose after descrambling and tuning the scrambled signal at the descrambler, performing the step for sending the descrambled and tuned signal from the descrambler to the central device (Kurtz, col. 10, line 3 – col. 11, line 5).

7. As to claims 3 and 13, Kurtz-Houser-Brooks disclose wherein the descrambler is a cable box (Kurtz, col. 5, lines 53-67).

8. As to claims 4 and 10, Kurtz-Houser-Brooks disclose wherein the user input is sent to the entertainment system by a remote control device (Kurt, col. 4, lines 47 – col. 5, line 21).

9. As to claims 15-16, Kurtz-Houser-Brooks disclose wherein receiving the signal by the entertainment system comprises receiving the signal at a single input of the central device, such that whether the signal is determined to be scramble or non-scrambled, the signal is received at the single input of the central device (Kurtz, col. 3, line 40 – col. 4, line 12 and col. 5, lines 22-52: an entertainment having a cable signal passing through a cable converter box and which provides both premium and non-premium programming, the connector 23 is labeled “TO CABLE” which is the connection for the input signal of the cable).

10. As to claim 17, Kurtz-Houser-Brooks disclose an input over which both the scramble and non-scrambled signals are received (Kurtz, col. 3, line 40 – col. 4, line 12).

Response to Arguments

In the remarks, Applicants argue in substance that

(A) It is not true that prior art discloses the step for determining at the central device whether a signal is scrambled or non-scrambled.

As to point (A), Kurtz discloses in the abstract and col. 2, line 37 – col. 3, line 11, col. 4, line 47 – col. 5, line 21 and Fig. 1: an entertainment or a central device having a cable signal passing through a cable converter box and which provides both premium and non-premium programming, a two-way splitter supplies the signal to that converter box to establish one source as a non-premium channel input and a second source as the output (represents a “descrambled” version) of the converter box; the central device has green and red light emitting diodes (LEDs) which indicate the signal is scrambled (premium) or non-scrambled (non premium).

(B) There is no motivation to combine the teachings of Houser and Kurtz.

As to point (B), In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so

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found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Kurtz determining data stored at the central device whether the signal is scrambled or non-scrambled as discussed above. However, Kurtz does not disclose electronic programming guide (EPG) data stored at the central device. Houser discloses EPG data, from information provider, is stored in memory at subscriber terminal unit 160 (central device) (col. 23, lines 7-37 and Fig. 2C). Houser teaches a subscriber terminal unit 160, is coupled to plurality of devices such as televisions, VCR, computer, and the like, which is similar to the system of Kurtz. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kurtz and Houser to include EPG data at the central device because EPG provide television schedule information arranged by time and channel for programs up to a few hours in advance (Houser, col. 22, lines 43-51).

11. Applicant's arguments filed on 02/10/2004 have been fully considered but they are not deemed fully persuasive. Please see the rejection and response to arguments above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau Nguyen whose telephone number is (703) 305-4639. The Examiner can normally be reached on Monday-Friday from 8:00 am to 6:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Joseph Feild, can be reached at (703) 305-9792.

The fax phone numbers for the organization where this application is assigned are as follows:

(703) 872-9306 (After Final Communications only)

(703) 872-9306 (Official Communications)

(703) 746-7240 (for Official Status Inquiries, Draft Communications only)

Inquiries of a general nature relating to the general status of this application or proceeding should be directed to the 2100 Group receptionist whose telephone number is (703) 305-3900.

Chau Nguyen
Patent Examiner
Art Unit 2176


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER